

AMENDED IN SENATE MAY 25, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2682

Introduced by Committee on Agriculture

March 8, 2012

An act to amend Sections 4103, 6981, 61933, 64007, 64101, 64103, 64105, and 77191 of, *to repeal Sections 64107, 64108, and 64109 of, and to repeal and add Section 64106 of*, the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2682, as amended, Committee on Agriculture. Agriculture.

(1) Existing law establishes the Sixth District Agricultural Association, which is known as the California Science Center, and authorizes it to establish a space-age museum at its building in Exposition Park in the City of Los Angeles.

This bill would instead authorize the California Science Center to establish an air and space center at that location.

(2) Existing law imposes an annual assessment of 1% on the gross sales of all deciduous pome and stone fruit trees, nut trees, olive trees, and grapevines, including seeds, seedlings, rootstocks, and topstock, including ornamental varieties of apple, apricot, crabapple, cherry, nectarine, peach, pear, and plum, produced and sold within the state or produced within and shipped from the state by any licensed nursery dealer. Existing law provides that the Secretary of Food and Agriculture may exempt from the assessment certain species of pome and stone fruit, nut trees, olive trees, grapevines, or ornamental varieties of apple,

apricot, crabapple, cherry, nectarine, olive, peach, pear, and plum if it can be demonstrated that no benefit is derived by these species from specified programs established by existing law concerning pome and stone fruit trees, nut trees, olive trees, and grapevines, as provided.

This bill would remove species of olive trees from the plants that the secretary may exempt from the assessment and instead allow the secretary to exempt certain varieties of olive trees from the assessment. The bill would also make a clarifying change.

(3) Existing law empowers the Secretary of Food and Agriculture to formulate a stabilization and marketing plan which includes, among other things, establishing the price to be paid by milk handlers for various classes of market milk. Class 2 market milk consists of, among other milk products, any market milk, market skim milk, or market cream used in the manufacture of market cream, homogenized market cream, sour cream, sour cream dressing, sour half-and-half or light sour cream, uncreamed, creamed, or partially creamed cottage cheese, soft fresh cheese (fromage frais), buttermilk, and yogurt. A violation of any provision regarding the stabilization and marketing of market milk, or any provision of any stabilization and marketing plan, is a misdemeanor.

This bill would add kefir to those products that are class 2 market milk. Because this bill would expand the scope of a crime, it would create a state-mandated local program.

(4) *Existing law, the Dairy Council of California Law, establishes the Dairy Council of California within state government, comprised of 12 producer members, 12 handlers or producer handlers, and one member who is neither a producer, handler, or producer handler of milk. Existing law requires the secretary to prepare and mail nomination forms to all producers, producer handlers, and handlers of milk for the purpose of receiving nominations of members of the council, and to fill vacancies in the council pursuant to the council's nominees. Existing law provides that the 12 producer members of the council may include persons that represent producers.*

This bill would require all members of the council to be appointed by the secretary and would specify that the members hold office at the pleasure of the secretary. The bill would delete the provisions providing for the nomination of members of the council by producers, producer handlers, and handlers of milk and instead would require members of the council to be nominated and appointed pursuant to procedures recommended by the council and approved by the secretary. The bill would authorize that the secretary to consider recommendations from

the remaining members of the council to fill vacancies. The bill would delete the provision allowing for representatives of producers to be appointed as producer members of the council. The bill would define “handler” to include persons who secure custom processing services on an ongoing basis.

~~(4)~~

(5) Existing law establishes the California Walnut Commission, and requires that the commission become inoperative at the end of any marketing year in which targeted export assistance funds provided by the federal government have been permanently terminated, unless a referendum vote conducted among walnut producers approves the continuation of the commission. Existing law provides that funds are considered to be permanently terminated when the federal government does not provide targeted export assistance funds in 2 consecutive budget years.

This bill would change when funds are considered to be permanently terminated to when the federal government does not provide targeted export assistance funds in 3 consecutive budget years.

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4103 of the Food and Agricultural Code
2 is amended to read:
3 4103. The California Science Center may establish an air and
4 space center in its building at Exposition Park in the City of Los
5 Angeles.
6 SEC. 2. Section 6981 of the Food and Agricultural Code is
7 amended to read:
8 6981. (a) An annual assessment of 1 percent shall be levied
9 on the gross sales of all deciduous pome and stone fruit trees, nut
10 trees, olive trees, and grapevines, including seeds, seedlings,
11 rootstocks, and topstock, including ornamental varieties of apple,

1 apricot, crabapple, cherry, nectarine, olive, peach, pear, and plum,
2 produced and sold within the state or produced within and shipped
3 from the state by any licensed nursery dealer. For packaged or
4 containerized stock, the assessment shall be levied on the
5 producer's bareroot price of the plants.

6 (b) The secretary, as appropriate, and on the recommendation
7 of the board established pursuant to Section 6988, may exempt
8 from the assessment certain species of pome and stone fruit, nut
9 trees, grapevines, or varieties of olive trees, or ornamental varieties
10 of apple, apricot, crabapple, cherry, nectarine, olive, peach, pear,
11 and plum if it can be demonstrated that no benefit is derived by
12 these species or varieties from programs described in subdivision
13 (d).

14 (c) The assessment shall be applied at the point of sale where
15 the nursery stock is sold by a producer to persons other than
16 California producers of nursery stock that is subject to assessment
17 under subdivision (a).

18 (d) The secretary may set the assessment at a lower percent to
19 cover the costs necessary to implement and carry out all department
20 programs established pursuant to Article 7 (commencing with
21 Section 5821) of Chapter 8 of Part 1 concerning the registration
22 and certification of pome and stone fruit trees, nut trees, olive trees,
23 and grapevines; the University of California foundation plant
24 materials service activities concerning pome and stone fruit trees,
25 nut trees, olive trees, and grapevines; and other activities related
26 to the development of planting materials for pome and stone fruit
27 trees, nut trees, olive trees, and grapevines.

28 SEC. 3. Section 61933 of the Food and Agricultural Code is
29 amended to read:

30 61933. Class 2 comprises any market milk, market skim milk,
31 or market cream used in the manufacture of market cream,
32 homogenized market cream, sour cream, sour cream dressing, sour
33 half-and-half or light sour cream, uncreamed, creamed, or partially
34 creamed cottage cheese, soft fresh cheese (fromage frais),
35 buttermilk, kefir, and yogurt. Class 2 also comprises any market
36 milk, market skim milk, or market cream used in the manufacture
37 of any product for which a definition and standard is prescribed
38 in Division 15 (commencing with Section 32501), except any
39 product that is included in class 1, class 3, class 4a, or class 4b.

1 *SEC. 4. Section 64007 of the Food and Agricultural Code is*
2 *amended to read:*

3 64007. “Handler” means any person that, as owner, agent, or
4 broker, purchases, or otherwise acquires from a producer,
5 producer-handler, or another handler, possession or control of
6 milk, skim milk, or cream, in the form of unprocessed milk, skim
7 milk, or cream, or in any other unprocessed form, for the purpose
8 of processing it, *and includes any person who secures custom*
9 *processing services on an ongoing basis.*

10 *SEC. 5. Section 64101 of the Food and Agricultural Code is*
11 *amended to read:*

12 64101. There is in the state government the Dairy Council of
13 California which shall consist of not less than 24, nor more than
14 25 members. *All members of the council shall be appointed by the*
15 *secretary and may hold office at the pleasure of the secretary.* The
16 membership of the council shall be as follows:

17 (a) There shall be 12 members that are actually engaged in the
18 production of milk, ~~or that represent producers that are actually~~
19 ~~engaged in the production of milk.~~ These 12 members are the
20 producer members of the council.

21 (b) There shall be 12 members that are handlers or
22 producer-handlers of dairy products. These 12 members are the
23 handler members of the council.

24 (c) Upon the recommendation of the council, the ~~director~~
25 *secretary* may appoint one person who is neither a producer,
26 handler, or producer-handler, and who shall represent the public
27 generally.

28 *SEC. 6. Section 64103 of the Food and Agricultural Code is*
29 *amended to read:*

30 64103. Officials or members, otherwise qualified, of
31 corporations, associations, and other business units, which are
32 actually engaged in business as producers, ~~producer representatives,~~
33 handlers, or producer-handlers of dairy products, are eligible to
34 be members of the council.

35 *SEC. 7. Section 64105 of the Food and Agricultural Code is*
36 *amended to read:*

37 64105. Any vacancy occurring during the unexpired term ~~shall~~
38 *may be filled by the director secretary* for the unexpired term ~~from~~
39 ~~the list of eligible nominees from the nominations received by him~~
40 *pursuant to Section 64108. In filling a vacancy, the secretary may*

1 *consider recommendations from the remaining members of the*
2 *council. The director may remove any member of the council for*
3 *cause deemed sufficient by him and upon such removal there shall*
4 *be a vacancy which shall be filled in the manner as provided in*
5 *this section for the unexpired term.*

6 *SEC. 8. Section 64106 of the Food and Agricultural Code is*
7 *repealed.*

8 ~~64106. During the month of October of each year, the director~~
9 ~~shall prepare and mail nomination forms to all producers,~~
10 ~~producer-handlers, and handlers for the purpose of receiving from~~
11 ~~them nominations of members of the council. Forms shall be~~
12 ~~mailed to the list provided for in Section 64072.~~

13 *SEC. 9. Section 64106 is added to the Food and Agricultural*
14 *Code, to read:*

15 *64106. Members of the council shall be nominated and*
16 *appointed pursuant to procedures recommended by the council*
17 *and approved by the secretary. The procedures may include, but*
18 *are not limited to, nominations, preference voting, and district*
19 *representation.*

20 *SEC. 10. Section 64107 of the Food and Agricultural Code is*
21 *repealed.*

22 ~~64107. The director shall determine the time permitted to file~~
23 ~~nominations, which shall not exceed 30 days.~~

24 *SEC. 11. Section 64108 of the Food and Agricultural Code is*
25 *repealed.*

26 ~~64108. (a) Every producer may nominate a nominee for each~~
27 ~~membership on the council which is to be filled by a producer.~~

28 ~~(b) Every handler and producer-handler may nominate a~~
29 ~~nominee for each handler membership on the council.~~

30 ~~(c) Producer representatives may be nominated in the same~~
31 ~~manner as provided in subdivision (a), except that to be eligible~~
32 ~~for appointment, the producer representative shall furnish to the~~
33 ~~director a resolution in writing which shows the official action of~~
34 ~~the board of directors of the organization he represents so~~
35 ~~nominating him.~~

36 *SEC. 12. Section 64109 of the Food and Agricultural Code is*
37 *repealed.*

38 ~~64109. Promptly after termination of the time which is allowed~~
39 ~~by the director for filing nominations, the director shall make the~~
40 ~~required number of appointments.~~

1 ~~SEC. 4.~~

2 *SEC. 13.* Section 77191 of the Food and Agricultural Code is
3 amended to read:

4 77191. This chapter shall become inoperative at the end of any
5 marketing year in which targeted export assistance funds provided
6 by the federal government have been permanently terminated,
7 unless, pursuant to the procedures described in Section 77193, the
8 producers approve the continuation of the commission. Funds are
9 permanently terminated within the meaning of the previous
10 sentence when the federal government does not provide targeted
11 export assistance funds in three consecutive budget years.

12 ~~SEC. 5.~~

13 *SEC. 14.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.